[redacted]

*OGC Has Reviewed*

23 August 1955

MEMORANDUM FOR: Mr. Houston

SUBJECT : Application of Nevada Industrial Insurance Act

1. It is believed the Nevada Industrial Insurance Act applies to the Company. Section 30 provides that the Act applies to an employer who "has in his service two (2) or more employees under a contract of hire" except as otherwise expressly provided in this Act. The express provisions otherwise, insofar as pertinent to the Company, are in Section 23 as follows:

> "This act shall not be construed to apply to employments which, according to law, are so engaged in interstate commerce as to be not subject to the legislative power of the state, nor to persons while they are so engaged. Nor shall it be construed to apply to employments covered by private disability and death benefit plans which comprehend payments of compensation of equal or greater amounts for the purposes covered in this act, and which has been in effect for one year prior to the effective date of this act."

It appears likely that even if the Company is engaged in interstate commerce in Nevada, regulation by Nevada by the enactment of the Nevada Industrial Insurance Act is a lawful exercise of the state police power to the extent that the Act is not in conflict with Federal statutes. I find no Federal statutes which would conflict. As to the exclusion of employments governed by private benefits plans the material from the Nevada Industrial Commission which has been furnished us specifically excludes California from those statutes which issue certificates to the effect that an employer is insured in the state and has private extra territorial coverage for his employees.

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2. According to the Commission material (paragraph C(1) of back of letter to [redacted]) the amount of premium is determined by multiplying the "total payroll" by the "premium rate" assigned to the business. "Total payroll" is defined at Instruction 25 under G. Rules of Instructions, as "the entire compensation received by each employee". The "premium rate", according to paragraph C(2) and (3) is "assigned by N.I.C. 'underwriters' who evaluate the accident and disease hazards of the individual business and then assign the business to the 'industry classification group' charged this premium rate". Most "classifications and rates are listed in Part III of the actuarial study of the N.I.C. dated January 26, 1953, but new classifications and rates are developed and assigned as N.I.C. experience warrants".

(The actuarial study is not among the material furnished us.) Premium rates are stated as so much per $100 of total payroll. See, for example, column 1 of Instruction 25.

3. There would seem to be no reason why the Company could not, consistently and with logic, comply with the Industrial Insurance Act while refusing the Unemployment Compensation Act on the simple grounds that by the terms of the two Acts the one applies and the other does not.

4. The Nevada Occupational Diseases Act is similar in application to the Industrial Insurance Act. Employers subject to the Act are those "having in service two (2) or more employees under a contract of hire" (Section 9). The Act does not apply in the case of interstate commerce, nor where private plans have been in effect for one year prior to the effective date of the Act (Section 17). Section 33 requires employers to pay premiums to the occupational diseases fund and the medical benefits fund in amounts determined by the Commission.

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Assistant General Counsel